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TAGS: EINV, YO
SUBJECT: ANALYSIS OF JOINT VENTURE LAW

REF: BELGRADE 2751 (NOTAL)

1. SUMMARY: THE NEW YUGOSLAV LAW ON JOINT VENTURES, WHICH
WENT INTO EFFECT 15 APRIL 1978, REPRESENTS MORE FLEXIBLE
AND SOPHISTICATED APPROACH TO REGULATING THE
FORMATION, OPERATION AND TERMINATION OF MIXED ENTERPRISES. THE
FIELDS OF PERMISSIBLE ECONOMIC ACTIVITIES ARE SIGNIFICANTLY
BROADENED. THE LAW SPECIFIES A VARIETY OF WAYS IN WHICH PROFITS
AND INVESTED CAPITAL CAN BE REPATRIATED. RESTRICTIONS ON THE
CONTRIBUTIONS OF NON-FINANCIAL ASSETS BY THE FOREIGN
PARTNER HAVE BEEN ELIMINATED. AND PERMISSION TO IMPORT ASSETS TO
BE INVESTED BY THE FOREIGN PARTNER CAN NOW BE GRANTED AT THE
TIME OF APPROVAL OF THE JOINT VENTURE AGREEMENT. ALL OF
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THESE ELEMENTS WILL PROBABLY BE GREETED FAVORABLE BY
POTENTIAL U.S. INVESTORS AND REPRESENT A MORE "LIBERAL"
APPROACH THAN IN THE PAST. HOWEVER, THERE ARE ALSO REASONS
FOR SERIOUS CONCERN OVER THE NEW LEGISLATION. FOREMOST IS THE
REQUIREMENT THAT THE JOINT VENTURE AGREEMENT SET A LIMIT ON
THE TOTAL COMPENSATION PAID TO THE FOREIGN PARTNER FOR ITS
PARTICIPATION IN THE JOINT VENTURE. PENDING OFFICIAL CLARIFICA-

TION THAT WOULD PLACE THE PROVISION IN A MORE FAVORABLE LIGHT, THIS REQUIREMENT MAY CREATE SERIOUS RESERVATIONS AMONG FOREIGN FIRMS CONSIDERING JOINT VENTURES AND, FOR THOSE THAT TAKE THIS STEP, RESULT IN DISTORTIONS IN INVESTMENT PATTERNS. OTHER AREAS OF CONCERN RELATE TO CONTINUED LIMITATIONS ON THE DECISION-MAKING RESPONSIBILITIES OF THE JOINT BUSINESS BOARD, THE PROHIBITION OF RESTRICTIONS ON THE EXPORTS OF THE JOINT VENTURE, LIMITATIONS ON THE USE OF DINAR AND HARD CURRENCY EARNINGS FOR REPATRIATION OF PROFITS AND INVESTED CAPITAL, AND THE COMPLEXITY OF THE APPROVAL PROCEDURE FOR JOINT VENTURE AGREEMENTS. THE EXTENT TO WHICH THESE CONCERNS AND OTHERS ARE VALID DEPENDS ON HOW THE YUGOSLAV AUTHORITIES DECIDE, ON CASE-BY -CASE BASIS, TO INTERPRET AND APPLY THE LAW. IN SHORT, THERE IS MUCH IN THE LAW WHICH WILL REQUIRE INTERPRETATION FROM APPROPRIATE YUGOSLAV AUTHORITIES AND FOREIGN JOINT VENTURE PARTNERS WILL WANT TO APPROACH THE NEGOTIATING PHASE WITH THE OBJECTIVE OF EXPLOITING THE LAW'S FLEXIBILITY TO THEIR MAXIMUM ADVANTAGE. END SUMMARY.

2. THE LAW REPLACES THE PREVIOUS LEGISLATION ENACTED IN 1973 (OFFICIAL GAZETTER OF THE SFRY, APRIL 19, 1973) AND ADDITIONAL CLARIFYING REGULATIONS PROMULGATED IN 1975 (OFFICIAL GAZETTE OF THE SFRY, JUNE 18, 1976). JOINT VENTURES WITH FOREIGN FIRMS HAVE BEEN PERMITTED IN YUGOSLAVIA SINCE 1967 WHEN AMENDMENTS WERE PASSED TO SEVERAL EXISTING LAWS WHICH SET THE CONDITIONS FOR FORMING MIXED ENTERPRISES. IN 1973 LIMITED OFFICIAL USE

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THESE REGULATIONS WERE, WITH ONLY MINOR MODIFICATIONS, CODIFIED INTO SEPARATE LEGISLATION WHICH IS THE PREDECESSOR TO THE CURRENT LAW,

THIS NEW LAW HAS BEEN THE SUBJECT OF DRAFTING AND REDRAFTING FOR CLOSE TO TWO YEARS AND IN THE SUMMER OF 1977 WENT THROUGH WHAT ONE EMBASSY SOURCE DESCRIBED AS "SEVEN LIBERAL DRAFTS AND SEVEN CONSERVATIVE ONES". THE NEW LAW IS DEFINITELY A COMPROMISE BUT IN THE MAIN, WITH THE EXCEPTION OF THE ARTICLE 19 PROBLEM RELATING TO COMPENSATION TO THE FOREIGN PARTNER, SHOULD ENCOURAGE JOINT VENTURES. IN 1967 WHEN YUGOSLAVIA BECAME THE FIRST COMMUNIST COUNTRY TO AUTHORIZE JOINT VENTURES THERE WAS, IN THE WORDS OF ONE EMBASSY CONTACT, A FEAR BY SOME THAT THE YUGOSLAV ECONOMY WOULD BE "SWALLOWED UP" BY WESTERN COMPANIES. IN TEN YEARS, TOTAL FOREIGN INVESTMENT UNDER JOINT VENTURES IN YUGOSLAVIA HAS AMOUNTED TO ABOUT 200 MILLION DOLLARS, WHICH SHOWS THAT YUGOSLAVIA IS NOT IN DANGER OF LOSING CONTROL OF ITS OWN ECONOMY. HUNGRY FOR INVESTMENT AND TECHNOLOGY, YUGOSLAVIA WANTS TO ENCOURAGE FURTHER JOINT VENTURES BUT WITH CERTAIN REAL LIMITATIONS. ONE FEATURE OF THE LAW SPECIFIES THAT THE JOINT VENTURE AGREEMENT CANNOT BE FOR AN INDEFINITE PERIOD; THE YUGOSLAV DRAFTERS SEEM TO ENVISION A TIME WHEN THEY WON'T NEED JOINT VENTURES. WE HAVE BEEN TOLD

THAT THIS FEATURE OF THE LAW WAS INSISTED UPON BY KARDELJ.

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3. PRINCIPAL NEW CONCEPTUAL INNOVATION OF THE LAW RELATES
TO INCOME WHICH FOREIGN PARTNER DERIVES FROM HIS PARTICIPATION IN
JOINT VENTURE. THE LAW REFERS TO THIS AS "COMPENSATION" (NAKNADA)
FOR USE OF INVESTED RESOURCES RATHER THAN "INCOME" (DOHODAK)
(ARTICLE 2). AS SUCH, PAYMENTS MADE TO THE FOREIGN PARTNER
BEAR MORE OF A RESEMBLANCE TO INTEREST THAN A SHARE IN
PROFITS CREATED BY SUCCESSFUL BUSINESS OPERATIONS. THIS
INTERPRETATION APPEARS TO BE BORNE OUT IN ARTICLE 19 WHICH STATES
THAT JOINT VENTURE AGREEMENT WILL PLACE A CEILING ON THE AMOUNT
OF COMPENSATION WHICH CAN BE GIVEN THE FOREIGN PARTNER FOR USE
OF INVESTED RESOURCES. IN DETERMINING THIS AMOUNT, JOINT
VENTURE PARTNERS ARE REQUIRED TO TAKE INTO ACCOUNT THE
AVERAGE RATE OF CAPITAL ACCUMULATION IN THE DOMESTIC
ENTERPRISE AND IN THE CORRESPONDING INDUSTRIAL BRANCH IN
YUGOSLAVIA AND IN THE WORLD ECONOMY. EARNINGS OVER AND ABOVE THE
CEILING MAY BE REPATRIATED BUT ONLY AT THE COST OF A
CORRESPONDING REDUCTION IN THE FOREIGN PARTNER'S EQUITY
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IN THE JOINT VENTURE. ALTERNATIVELY, THESE EARNINGS MAY BE REINVESTED THOUGH IT IS NOT CLEAR UNDER WHAT CONDITIONS THEY COULD BE REPATRIATED IN THE FUTURE. MOREOVER, REINVESTMENT OF THESE EARNINGS WOULD NOT INCREASE THE FOREIGN PARTNER'S SHARE IN THE JOINT VENTURE. THE OBLIGATION OF THE DOMESTIC ENTERPRISE REGARDING "EXCESS PROFITS" IS NOT SPECIFIED. ECONOMIC LOGIC WOULD DICTATE THAT THE DOMESTIC PARTNER BE TREATED THE SAME AS THE FOREIGN PARTNER AND ALSO BE REQUIRED TO REINVEST THESE EARNINGS. IT IS POSSIBLE THAT THIS COULD BE PROVIDED IN SEPARATE LEGISLATION. THE PRIMARY PURPOSE OF THIS ARTICLE IS APPARENTLY TO PREVENT THE FOREIGN PARTNER FROM "MILKING" THE JOINT VENTURE ENTERPRISE, A CHARGE LEVELLED AT SOME FOREIGN FIRMS IN EARLIER JOINT VENTURES. EXACTLY HOW THE "ALLOWABLE" AMOUNT OF COMPENSATION IS TO BE CALCULATED IS UNCLEAR, BUT THIS COMPENSATION APPROACH TO PROFIT SHARING WOULD PRESENT A NUMBER OF PROBLEMS FOR FOREIGN FIRMS. UNLESS THE COMPENSATION WAS SET AT A LEVEL SUBSTANTIALLY ABOVE THE AVERAGE IN DEVELOPED COUNTRIES, FOREIGN FIRMS MAY NOT HAVE ADEQUATE INCENTIVE TO BEAR THE RISK OF A JOINT VENTURE IN YUGOSLAVIA. FINALLY, WITHIN A PERIOD OF SEVERAL YEARS THE RATE OF RETURN OF INVESTMENTS IN CERTAIN SECTORS CAN CHANGE RADICALLY DUE TO TEMPORARY SHORTAGES IN THE MARKET AS WELL AS CHANGES IN THE STRUCTURE OF THE MARKET. UNLESS THE FOREIGN PARTNER'S COMPENSATION COULD BE ADJUSTED WHILE THE JOINT VENTURE AGREEMENT IS IN EFFECT, IT WOULD BE DEPRIVED OF THIS ADDITIONAL PROFIT WHICH SHOULD BE DUE IT AS ONE OF THE RISK BEARERS IN THE BUSINESS VENTURE.

4. OTHER IMPORTANT CHANGES IN THE LAW AND SUBSEQUENT REGULATIONS INCLUDE THE FOLLOWING:

A. ECONOMIC FRAMEWORK. NEW LAW ESTABLISHES IN ARTICLE I ECONOMIC FRAMEWORK WITHIN WHICH JOINT VENTURE PROPOSALS ARE TO LIMITED OFFICIAL USE

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BE EVALUATED. IT IS NOTEWORTHY THAT LAW ENVISAGES MIXED ENTERPRISES AS FULFILLING NUMBER OF PURPOSES THAT BENEFIT THE ECONOMY AS A WHOLE. THEY ARE EXPECTED TO BROADEN YUGOSLAVIA'S PARTICIPATION IN THE INTERNATIONAL DIVISION OF LABOR, INTRODUCE MODERN TECHNOLOGY, INCREASE EXPORTS AND REDUCE IMPORTS. THE ECONOMIC FRAMEWORK, THEREFORE, IS A BROAD ONE WHICH WOULD ACCOMMODATE JOINT VENTURES HAVING A VARIETY OF BUSINESS GOALS AND MODES OF OPERATION. THIS FLEXIBILITY IS LIKELY TO BE APPEALING TO MANY U.S. FIRMS.

B. PERMISSIBLE ECONOMIC ACTIVITIES. JOINT VENTURES WILL BE PERMITTED IN ALL FIELDS EXCEPT INSURANCE, COMMERCE AND PUBLIC SERVICES (ARTICLE 10). (BY EXCEPTION EVEN THESE

ACTIVITIES CAN BE APPROVED.) THE PREVIOUS BAN ON JOINT VENTURES IN BANKING AND INTERNAL TRANSPORTATION IS LIFTED BUT BANKING JOINT VENTURES ARE NOT PERMITTED UNTIL ADDITIONAL REGULATIONS ARE PASSED. THOUGH NOT PROHIBITED UNDER THE PREVIOUS LAW, THE NEW LAW SPECIFICALLY MENTIONS THE POSSIBILITY OF JOINT VENTURES IN THE EXTRACTION AND PROCESSING OF GAS, OIL AND MINERALS; AND IN A AGRICULTURAL PRODUCTION AND PROCESSING. OTHER POSSIBILITIES NOTED INCLUDE MAINTENANCE OF ROADS AND BRIDGES AND BUS TERMINAL SERVICES.

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C. JOINT BUSINESS BOARD. MOST OF THE SPECIFIC RESTRICTIONS ON THE BOARD'S AUTHORITY WHICH WERE PROVIDED IN THE 1976 REGULATION (E.G. PROHIBITION ON DECISION- MAKING ON INCOME DISTRIBUTION, AGREEMENTS ON CREDIT, ENTERPRISE PLANS, ETC.) HAVE BEEN ELIMINATED. THE CURRENT LAW (ARTICLE 16) ESSENTIALLY SAYS THAT THE BOARD MAY MAKE DECISIONS IN ANY AREA EXCEPT THAT IN WHICH THE WORKER'S COUNCIL HAS AN INALIENABLE RIGHT. EVEN IN THESE AREAS THE BOARD CAN MAKE PROPOSALS TO WHICH THE WORKERS' COUNCIL IS REQUIRED TO RESPOND. THE RESTATEMENT OF THE BOARD'S DECISION-MAKING AUTHORITY IN GENERAL TERMS, HOWEVER, IS NOT NECESSARILY AN INDICATION THAT ITS POWERS HAVE BEEN EXPANDED. IT MAY BE A COSMETIC APPROACH BECAUSE THE YUGOSLAVS KNOW SOME FOREIGN PARTNERS WERE FRIGHTENED BY THE RESTRICTIVE LANGUAGE OF THE 1976 REGULATION.

BOTH THE NEW LAW AND REGULATION ARE BASED ON THE PROVISIONS OF THE 1974 CONSTITUTION RELATING TO THE RIGHTS OF WORKERS EMPLOYED IN ORGANIZATIONS OF ASSOCIATED LABOR. PERMISSION TO INTERPRET THE CURRENT LAW IN A SUBSTANTIALLY DIFFERENT WAY, LIMITED OFFICIAL USE

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THEREFORE, IS PROBABLY BEYOND THE SCOPE OF AUTHORITY OF THE ADMINISTERING AUTHORITIES, BUT THE LACK OF DETAIL IS ANOTHER OF THE CURRENT LAW'S POTENTIALLY FLEXIBLE FEATURES. THE CURRENT LAW SPECIFICALLY RESTRICTS THE FOREIGN PARTNER TO 50 PERCENT OF LESS OF THE SEATS ON THE BOARD (ARTICLE 15).

D. INCOME DISTRIBUTION AND LOSSES. BASIC PRINCIPLE GOVERNING INCOME DISTRIBUTION WAS NOTED ABOVE. THE LAW ALSO STATES THAT JOINT VENTURE AGREEMENTS WHICH PROVIDE FOR SHARING OF INCOME BY THE FOREIGN PARTNER FOR INDEFINITE PERIODS OF TIME ARE ILLEGAL. (ARTICLE 17). THIS WAS ONLY IMPLIED IN THE PREVIOUS LAW, WITH ITS REFERENCE TO INVESTMENTS FOR A LIMITED PERIOD OF TIME. LOSSES ARE DEFINED IN ARTICLE 22 AS OCCURRING WHEN TOTAL INCOME IS NOT ADEQUATE TO COVER THE COST OF ADVANCE WAGE PAYMENTS WHICH HAVE BEEN MADE TO WORKERS OR, ON A CURRENT BASIS, THE MINIMUM GUARANTEED WAGES OWED THE WORKERS PLUS OTHER OBLIGATIONS OF THE JOINT VENTURE (E.G. SOCIAL AND WELFARE FUND CONTRIBUTIONS). IF THE FOREIGN PERSON DOES NOT COVER LOSSES INCURRED IN A GIVEN YEAR, THIS WILL RESULT IN A CORRESPONDING REDUCTION IN THE AMOUNT OF HIS EQUITY. MANY FOREIGN FIRMS ARE LIKELY TO FIND UNATTRACTIVE THE RISK OF FORFEITING THE ENTIRE AMOUNT OF THEIR EQUITY IN A JOINT VENTURE DUE TO UNCOVERED LOSSES WHEN A CEILING IS PLACED ON THEIR MAXIMUM PROFIT, NO MATTER HOW HIGH THAT CEILING IS.

E. TAXES. THE PROVISION OF THE PREVIOUS LAW REQUIRING THE FOREIGN PARTNER TO PAY TAXES UNDER A SEPARATE LAW ON JOINT VENTURE PROFITS HAS BEEN DROPPED. IT IS NOT CLEAR AT THIS TIME, HOWEVER, WHETHER THIS WILL EXEMPT THE FOREIGN PARTNER IN FUTURE JOINT VENTURE FROM THE CURRENT TAX APPLYING TO EXISTING JOINT VENTURES WHICH RANGES FROM 10 TO 35 PERCENT DEPENDING ON THE REPUBLIC OR PROVINCE.

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F. REPATRIATION OF PROFITS AND INVESTED CAPITAL. THE LAW PROVIDES FOR SEVERAL IMPORTANT INNOVATIONS IN THIS AREA. PAYMENT OF THE FOREIGN PARTNER'S SHARE OF INCOME MAY BE IN DINARS WHICH CAN BE TAKEN OUT OF THE COUNTRY, USED TO PURCHASE AND EXPORT YUGOSLAV GOODS AND SERVICES, OR TRANSFERRED TO ANOTHER

FOREIGN PERSON IF THE JOINT VENTURE IS PROVIDING SERVICES OR PRODUCING GOODS WHICH CANNOT BE EXPORTED. THE FOREIGN PARTNER OF A JOINT VENTURE IN THE FIELD OF OIL, GAS OR MINERALS EXTRACTION/ PROCESSING OF AGRICULTURAL PRODUCTION/PROCESSING CAN BE PAID HIS SHARE OF THE PROFITS IN KIND (I.E. PRODUCTS OF THE JOINT VENTURE) AND TRANSFER THE PRODUCTS ABROAD. THE LAW DOES NOT SPECIFY THE PERCENTAGE OF HARD CURRENCY EARNED BY THE JOINT VENTURE WHICH CAN BE REPATRIATED BY THE FOREIGN PARTNER BUT REFERS TO THE LAW ON FOREIGN EXCHANGE TRANSACTIONS AND CREDIT RELATIONS WITH FOREIGN COUNTRIES. UNDER ARTICLE 134 OF THAT LAW, THE FOREIGN PARTNER IS ENTITLED TO TRANSFER ABROAD UP TO 50 PERCENT OF HARD CURRENCY EARNINGS OF THE JOINT VENTURE AND, FOR JOINT VENTURES IN DEVELOPING REGIONS, UP TO 100 PERCENT. WITHIN THIS 50 PERCENT (OR 100 PERCENT) TOTAL, THE FOREIGN PARTNERS CAN RECEIVED REPAYMENT IN HARD CURRENCY OF CAPITAL INVESTED IN THE JOINT VENTURE. THE FOREIGN PARTNER MAY ALSO REPATRIATE INVESTED CAPITAL IN DINARS OR IN PRODUCTS AND SERVICES PURCHASED WITH DINARS ON THE YUGOSLAV MARKET, IN CONFORMITY WITH THE FOREIGN EXCHANGE LAW. THE SPECIFIC REGULATIONS GOVERNING THE USE OF DINAR PAYMENTS BY FOREIGN PARTNERS, BOTH FOR REPATRIATION OF PROFITS AND INVESTED CAPITAL, HAVE YET TO BE PROMULGATED BY THE FEDERAL EXECUTIVE COUNCIL.

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G. KINDS OF EQUITY PARTICIPATION. AS HIS SHARE OF EQUITY

IN THE JOINT VENTURE THE FOREIGN PARTNER MAY INVEST EQUIPMENT, SEMI-FINISHED GOODS AND RAW MATERIALS PROVIDED THAT THEY ARE NOT MANUFACTURED IN YUGOSLAVIA IN THE REQUIRED AMOUNTS AND QUALITY. INVESTMENT OF KNOW-HOW, PATENT RIGHTS, TRADE MARKS AND OTHER INVISIBLE ASSETS IS ALSO PERMITTED. UNDER THE NEW LAW, THERE ARE NO RESTRICTIONS ON THE AMOUNT OF THE FOREIGN PARTNER'S NON-FINANCIAL ASSETS IN THE JOINT VENTURE. THE PERCENTAGE OF THE FOREIGN PERSON'S EQUITY IS, AS BEFORE, LIMITED TO 49 PERCENT OF THE JOINT VENTURE WITH EXCEPTIONS PERMITTED IN CASES WHERE ECONOMIC DEVELOPMENT MIGHT BE ACCELERATED.

H. EASEMENT OF RESTRICTIONS ON IMPORTS FOR JOINT VENTURES. THE NEW LAW PROVIDES THAT AT THE TIME OF APPROVAL OF THE JOINT VENTURE AGREEMENT, A DECISION WILL ALSO BE MADE ON THE RIGHT OF THE JOINT VENTURE ENTERPRISE TO IMPORT EQUIPMENT, SEMI-FINISHED GOOS AND RAW MATERIALS WHICH ARE BEING IVESTED BY THE FOREIGN PARTNER. THE DECISION OF THE FOREIGN TRADE SECRETARIAT LIMITED OFFICIAL USE

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AND THE FEDERAL COMMITTEE FOR ENERGY AND INDUSTRY TO PERMIT THESE IMPORTS IS VALID FOR THE ENTIRE PERIOD IN WHICH THE INVESTMENT IS TO BE MADE, ACCORDING TO THE JOINT VENTURE AGREEMENT. THE SIMULTANEOUS APPROVAL OF THE JOINT VENTURE AGREEMENT AND GRANTING OF THE RIGHT TO IMPORT CERTAIN ASSETS WILL SERVE TO ELIMINATE AN IMPORTANT ELEMENT OF UNCERTAINTY IN THE FORMATION AND START-UP OF MANY JOINT VENTURE ENTERPRISES.

I. CRITERIA FOR APPROVAL OF JOINT VENTURE. THESE REMAIN SUBSTANTIALLY THE SAME THOUGH THE NEW LAW HAS MADE SOME SIGNIFICANT CHANGES (ARTICLE 42). THE LAW CONTINUES TO REQUIRE THAT THE JOINT VENTURE INCREASE PRODUCTION AND EXPORTS, AND INTRODUCE MODERN TECHNOLOGY AND BUSINESS PRACTICES. INVESTED RESOURCES MUST BE ADEQUATE TO ACHIEVE BUSINESS GOALS. THE FOREIGN PARTNER'S NON-FINANCIAL INVESTMENT HAS TO BE REALISTICALLY VALUED. IT IS EXPECTED THAT THE TERMS OF BUSINESS COOPERATION WILL BE SIMILAR TO THE USUAL TERMS FOUND IN OTHER COUNTRIES. NEW ELEMENTS INCLUDE THE FOLLOWING. THE MINIMUM INVESTMENT OF 1.5 MILLION DINARS HAS BEEN DROPPED AND, IN ITS PLACE, THE LAW AUTHORIZES THE FEDERAL EXECUTIVE COUNCIL TO SET THE LOWEST AMOUNT AND TOTAL VALUE OF THE JOINT VENTURE WHICH THE FOREIGN PARTNER MUST INVEST. THE LAW DOES NOT SPECIFY WHETHER THE AMOUNT WILL BE THE SAME FOR ALL JOINT VENTURES OF VARY DEPENDING ON THE SIZE OF TOTAL INVESTMENT. AN EXEMPTION CAN BE GIVEN BY THE FEDERAL EXECUTIVE COUNCIL OF THE REQUIREMENT TO INCREASE EXPORTS PROVIDED THAT THE JOINT VENTURE FOSTERS DEVELOPMENT OF THE RESPECTIVE BRANCH OF THE ECONOMY. THE NEW LAW PROHIBITS A JOINT VENTURE AGREEMENT RESTRICTING EXPORTS OF THE PRODUCT OF THE JOINT VENTURE. THIS IS A MORE GENERAL FORMULATION THAN THAT CONTAINED IN THE 1976 REGULATION WHICH PROHIBITED RESTRICTION OF EXPORTS TO

"CERTAIN COUNTRIES". THE NEW LAW, HOWEVER, DOES CONTAIN A
CLAUSE THAT THESE RESTRICTIONS ARE PROHIBITED IF THEY DO
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NOT "COMPLY WITH THE POLICY AND REGIME OF YUGOSLAVIA'S ECONOMIC
RELATIONS WITH FOREIGN COUNTRIES". DEPENDING ON HOW THIS
PROVISION IS INTERPRETED, THE NEW LAW WILL BE MORE OR LESS
LIBERAL IN THIS REGARD.

J. REGISTRATION PROCEDURES. WITHIN 30 DAYS AFTER THE SIGNING
OF THE JOINT VENTURE AGREEMENT THE PARTNERS MUST SUBMIT
APPLICATION FOR APPROVAL TO THE FEDERAL COMMITTEE FOR ENERGY AND
INDUSTRY WHICH IS REQUIRED TO ACT WITHIN 60 DAYS OF IT
RECEIPT. PRIOR TO SUBMISSION OF AN APPLICATION, HOWEVER,
THE JOINT VENTURE PARTNERS MUST SEEK THE OPINIONS OF THE RESPONSIBLE
REPUBLICAN OR PROVINCIAL ORGAN, THE YUGOSLAV CHAMBER OF ECONOMY
AND THE FEDERAL INSTITUTE OF ECONOMIC PLANNING. THE LAW
ENVISIONS THAT THE OPINIONS WILL NORMALLY BE GIVEN WITHIN 30
DAYS. THE COMMITTEE FOR ENERGY AND INDUSTRY WILL MAKE ITS
DECISION AFTER CONSULTING WITH APPROPRIATE FEDERAL ORGANS ON
THE JOINT VENTURE'S EFFECT ON NATIONAL SECURITY INTERESTS AND
AFTER RECEIVING THE RECOMMENDATION OF A COMMISSION FORMED
BY THE FEDERAL EXECUTIVE COUNCIL. THE COMMISSION, WHICH HAS
NOT YET BEEN ESTABLISHED, MAY, AS A RESULT OF ITS CLOSE
ASSOCIATION WITH THE MOST POWERFUL FEDERAL BODY, HAVE THE KEY
DECISION-MAKING ROLE IN THIS PROCESS. THE NEW REGISTRATION
PROCESS IS A SLIGHT IMPROVEMENT OVER THE 1976
REGULATION IN THAT THE FEDERAL ECONOMIC CHAMBER,
PLANNING INSTITUTE AND RESPONSIBLE REPUBLICAN (OR PROVINCIAL)
BODY ARE EXPECTED TO GIVE THEIR OPINIONS WITHIN 30 DAYS;
NO TIME LIMIT WAS PREVIOUSLY SPECIFIED FOR THE REQUIRED
PRELIMINARY REVIEWS BEFORE SUBMISSION TO THE
COMMITTEE FOR ENERGY AND INDUSTRY. AN ADDITIONAL COMPLICATING
FACTOR, HOWEVER, IS THAT NOW THE RESPONSIBLE REPUBLICAN (OR
PROVINCIAL) BODY IS EXPECTED TO TAKE INTO ACCOUNT IN OFFERING
ITS OPINION THE FOREIGN EXCHANGE POSITION ESTABLISHED
BY THE REPUBLIC OR PROVINCIAL COMMUNITY OF INTEREST FOR
FOREIGN ECONOMIC RELATIONS.

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K. PROTECTION OF FOREIGN PARTNER'S RIGHTS. THE FOREIGN PARTNER CONTINUES TO BE PROTECTED AGAINST CHANGES IN THE JOINT VENTURE LAW WHICH WOULD REDUCE THIS RIGHTS OR ADVERSELY AFFECT THE CONDITIONS OF OPERATIONS OF THE JOINT VENTURE (ARTICLE 6). AN ADDITIONAL GUARANTEE IS GIVEN SO THAT IN THE EVENT OF A SEIZURE OF A FOREIGN PERSON'S ASSETS "IN THE GENERAL INTEREST", THE FOREIGN PERSON HAS A RIGHT TO PROMPT PAYMENT OF COMPENSATION (ARTICLE 37). EXACTLY WHAT KINDS OF CONDITIONS MIGHT REQUIRE THE SEIZURE OF THE FOREIGN PERSON'S ASSETS ARE NOT SPECIFIED.

5. FOREIGN DIPLOMATS WITH WHOM WE HAVE SPOKEN AND CERTAIN FOREIGN BUSINESS AND GOVERNMENT FIGURES, INCLUDING MEMBERS OF THE GERMAN/YUGOSLAV MIXED COMMISSION, WHILE APPLAUDING CERTAIN ASPECTS OF THE LAW ARE VERY CONCERNED ABOUT THE IMPLICATIONS OF ARTICLE 19 AND ITS MAXIMUM COMPENSATION-SETTING FEATURE. THEY ALSO WORRY ABOUT THE COMPLEXITY OF THE LAW. SPECULATING THAT SMALL AND MEDIUM-SIZED FIRMS (BY

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WESTERN EUROPEAN STANDARDS) WILL FIND IT TOO DIFFICULT AND CUMBERSOME AND WILL, THEREFORE, SHY AWAY FROM YUGOSLAVIA AS A JOINT VENTURE PROSPECT.

6. THE NEW LAW APPEARS TO FIT INTO THE PRESENT YUGOSLAV PATTERN OF ECONOMIC DECENTRALIZATION, GIVING THE REPUBLICS AN INCREASED ROLE TO PLAY IN THE APPROVAL OF JOINT VENTURES. IF A PROPOSED JOINT VENTURE IS OF GREAT INTEREST TO A REPUBLIC IT IS MORE LIKELY TO RECEIVE FAVORABLE CONSIDERATION AT ALL LEVELS OF THE APPROVAL PROCESS AND GIVEN THE FLEXIBILITY AND ROOM FOR INTERPRETATION INHERENT IN THE LAW, JOINT VENTURE AGREEMENTS MAY DIFFER CONSIDERABLY IN THEIR ACTUAL

PROVISIONS.

7. THE EMBASSY WILL CONTINUE TO SEEK INTERPRETATION OF THE
LAW FROM THOSE YUGOSLAV OFFICIALS CONCERNED WITH ITS
IMPLEMENTATION.

8. REQUEST EUR/EE PROVIDE USYEC SUBSTANCE OF ANALYSIS IN
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Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978BELGRA03561
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780198-1155
Format: TEL
From: BELGRADE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780576/aaaacmfh.tel
Line Count: 557
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: e4f7b0a1-c288-dd11-92da-001cc4696bcc
Office: ACTION EUR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 11
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 78 BELGRADE 2751
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2741392
Secure: OPEN
Status: NATIVE
Subject: ANALYSIS OF JOINT VENTURE LAW
TAGS: EINV, YO
To: STATE USOECD
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/e4f7b0a1-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
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EO Systematic Review
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